



Federal Communications Commission
Washington, D.C. 20554

October 12, 2007

DA 07-4105

Cadillac Telecasting Co.
c/o Gregg P. Skall, Esq.
Womble Carlyle Sandridge & Rice PLLC
1401 Eye Street, NW, 7th Floor
Washington, DC 20005-2225

Re: *Applications for Assignment of Licenses*
WFQX-TV, Cadillac, Michigan; Fac. ID No. 25396
WFUP(TV), Vanderbilt, Michigan; Fac. ID No. 25395
W54CR, Traverse City, Michigan, Fac. ID No. 25397
W61CR, Sault Ste. Marie, Michigan, Fac. ID No. 25400
File Nos. BALCT-20070509ABA, ABB
File Nos. BALTT-20070509ABC, ABD

Request for Continuing Satellite Authorization
WFUP(TV), Vanderbilt Michigan

Dear Counsel:

This is in reference to the above-captioned applications for assignment of licenses from Rockfleet Broadcasting II, LLC ("Rockfleet") to Cadillac Telecasting Company ("Assignee"). As part of this transaction, the assignee requests continuing satellite authority for WFUP(TV), Vanderbilt, Michigan, which operates as a satellite of WFQX-TV, Cadillac, Michigan, pursuant to the satellite exemption to the duopoly rule.¹ Both stations are located within the Cadillac-Traverse City, Michigan DMA.

In *Television Satellite Stations*,² the Commission established the requirement that all applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with a three-part "presumptive" satellite exemption standard applicable to new satellite stations. The presumptive satellite exemption is met if the following three public interest criteria are satisfied: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is ready and able to construct or to purchase and operate the satellite as a full-service station.³ If an applicant does not

¹ See 47 C.F.R. § 73.3555, Note 5. The assignee asserts that there is a very slight overlap in the Grade B signal contours of stations WFUP(TV) and WFQX-TV of less than 1% of the area and population.

² 6 FCC Rcd 4212, 4215 (1991) (subsequent history omitted).

³ *Id.* at 4213-14.

qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc* basis, and grant the application if there are compelling circumstances that warrant approval.⁴

As to the first criterion, the assignee has submitted an engineering study, which demonstrates that there is no City Grade contour overlap between WFUP(TV) and WFQX-TV. Thus, the proposed satellite operation meets the first component of the presumption. With respect to the second criterion, applicants can use two different tests to demonstrate that an area is underserved. Under the “transmission test” a proposed satellite community of license is considered undeserved if there are two or fewer television stations already licensed to it.⁵ The assignee asserts that WFUP(TV) is the only television station licensed to Vanderbilt. Accordingly, Vanderbilt qualifies as an underserved area, thereby satisfying the second component of the presumption.

Regarding the third criterion, an applicant must show that no alternative operator is ready and able to construct, or to purchase and operate, the proposed satellite as a full-service station.⁶ Initially, we note that the assignee does not base its satisfaction of the third criterion on efforts to sell WFUP(TV). In support of its continuing waiver request, the assignee asserts that the remoteness and small population of Vanderbilt and the surrounding area make it impossible to operate WFUP(TV) as a full-service station. Moreover, the assignee notes the following population statistics which are derived from the 2000 U.S. Census. Vanderbilt, WFUP(TV)’s city of license, has a population of 587 persons. Vanderbilt is located in Otsego County, which has a population of 23,301 persons. Furthermore, Otsego County has only 13,375 total households, and the estimated per capital income is \$18,810.00. According to the assignee, the US Census Bureau’s *American Factfinder* does not even track the retail trade statistics for this county, presumably because it is so small, and refers the inquiry to Traverse City.

Furthermore, the assignee submits an economic viability study from Kelly Callan, Vice President of Kalil & Co., Inc., a nationally recognized media brokerage firm. Callan concludes that if WFUP(TV) was converted to a full-service station, it would not be financially viable. In this regard, Callan explains that WFQX-TV and WFUP(TV) are Fox affiliates, serving the Traverse City-Cadillac DMA. This is the 113th largest DMA with 230,000 television households. Callan asserts that the Traverse-City-Cadillac DMA is unusual in that there are two defined metro areas in the market. According to Callan, the breadth of the market is such that no single television station can cover the entire DMA with an over-the-air signal. Callan avers that WFQX-TV serves the Cadillac metro area and WFUP-TV rebroadcasts WFQX-TV’s signal in portions of the market that WFQX-TV does not reach. Callan asserts that Vanderbilt is a small community located in the northern portion of the DMA. Moreover, Callan states that WFUP-TV services Vanderbilt, but does not cover either Traverse City or Cadillac with an over-the-air signal. Callan notes that these are the financial, retail, and population centers of the DMA. In short, Callan contends that the costs of outfitting, staffing and programming WFUP-TV could not be covered by the advertising revenues generated in the Vanderbilt, Michigan area. In addition, Callan states that WFUP-TV does not have any FCC authority to operate digitally and must cease analog operations and surrender its license at the end of the digital television transition on February 17, 2009. Thus, Ms. Callan avers that WFUP-TV has a very limited future as an operating station.

⁴ *Id.*

⁵ *Television Satellite Stations*, 6 FCC Rcd at 4215.

⁶ *Id.*

Based on our review of the information submitted, including the size of WFUP(TV)'s community and small economic base, we find that the assignee has set forth information sufficient to warrant continued satellite operation for WFUP(TV) under our *ad hoc* analysis. Station WFUP(TV) has operated as a satellite of station WFQX-TV since 1998,⁷ and the assignee has submitted further evidence demonstrating the unfeasibility of finding a purchaser willing to operate the station on a stand alone basis. We, therefore, find that the continued operation of WFUP(TV) as a satellite of WFQX-TV would be in the public interest. In view of the foregoing, and having determined that the assignee is qualified in all respects, we find that grant of the above-referenced applications would serve the public interest, convenience and necessity.

ACCORDINGLY, the request of Cadillac Telecasting Co. for the continued operation of WFUP(TV), Vanderbilt, Michigan, pursuant to the satellite exception to the duopoly rule, Section 73.3555, Note 5, of the Commission's rules, **IS GRANTED**. **FURTHERMORE**, the above-referenced applications for consent to assign the licenses for WFQX-TV, Cadillac, Michigan, WFUP(TV), Vanderbilt, Michigan, W54CR, Traverse City, Michigan, and W61CR, Sault Ste. Marie, Michigan to Cadillac Telecasting Co. **ARE GRANTED**.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: John M. Burgett, Esq.

⁷ See *Applications of GRK Productions Joint Venture*, 13 FCC Rcd 12168 (1998). See also FCC File No. BALCT-19990830AAK (granting consent to continue operating WFUP(TV) as a satellite of WFQX-TV in connection with an application to assign stations' licenses from GRK to Rockfleet.)